Provincial Land Use Policies

Rationale and Highlights: For Consultation Purposes

Manitoba

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Table of Contents

Part 1: Background 2

What is land use planning? 2

What are the Provincial Land Use Policies? 2

Goals of the Review 2

Part 2: Highlighted Changes 3

A. Format and Style 3

1. Provincial Interest, Goals and Policies 3

2. Policy Language 3

3. Reduce Redundancy 4

B. Content 4

Development Plan By-laws 4

Policy Area 1: General Development 4

Policy Area 2: Settlement Areas 4

Policy Area 3: Agriculture 5

Policy Area 4: Natural Lands, Renewable Resources, Recreation and Heritage 5

Policy Area 5: Water 6

Policy Area 6: Infrastructure 6

Policy Area 7: Transportation 6

Policy Area 8: Mineral Resources 7

Policy Area 9: Capital Region 7

Part 3: Feedback 8

Why should I be interested in the review and rewrite of the *Policies*? 8

What has been the process for reviewing and rewriting the *Policies*? 8

How can I comment on the draft *Policies*? 8

Part 1: Background

What is land use planning?

Land use planning is a community-based process that helps local authorities decide how land will be used and developed. Each community sets its own goals and creates strategies to manage growth and development by preparing a development plan by-law, which is adopted jointly by the planning authority and the provincial government. These plans should address local issues and help support the sustainable development of Manitoba.

What are the *Provincial Land Use Policies*?

The *Provincial Land Use Policies Regulation* state what the provincial government's interests are in the use and development of land, resources and infrastructure. The *Provincial Land Use Policies* are used by the Manitoba Government and local authorities to prepare, amend and review local development plans, which must be generally consistent with the *Provincial Land Use Policies*. This is because when they are adopted, these plans replace the *Provincial Land Use Policies* as the blueprint for development in a planning area. Subsequent reviews or amendments of local plans must also be consistent with the *Provincial Land Use Policies Regulation*.

The province first adopted land use policies as a regulation in 1980. The regulation was amended in 1994 to incorporate the principles of sustainable development, and in 2005 to incorporate livestock operations policies. Since this time, a number of emerging trends, issues and legislative changes have prompted the need for the comprehensive review and rewrite of the *Provincial Land Use Policies*, which are currently underway. One example of a legislative change that has prompted the need for the review is that the regulation now applies to the City of Winnipeg, as outlined in *The Planning Act*.

Goals of the Review

There are four key goals for the review and rewrite of the *Provincial Land Use Policies Regulation*.

1. To respond to emerging land use planning and development related issues and priorities, including, but not limited to: protecting water, integrating land use and infrastructure planning, addressing climate change issues and promoting energy efficiency.

2. To promote planning and development based on sound planning principles, best practices and innovative approaches to be practiced throughout Manitoba.

3. To clearly state the provincial interests in land use and development by setting policies that have clear interpretations and intentions.

4. To modernize and streamline the policies to make them more user-friendly and less prone to misinterpretation.

Part 2: Highlighted Changes

The draft Provincial Land Use Policies (*the Policies*) explains the provincial government's interest in planning for the sustainable development of our land and resources. To ensure a clear understanding of this provincial interest, the draft *Policies* should be read in their entirety, rather than as a set of individual policies.

The following highlights identify the key changes in the draft *Policies*, and alert stakeholders to significant implications that may affect them. In addition to highlighting these changes and improvements, this section also provides some rationale for them.

A. Format and Style

1. Provincial Interest, Goals and Policies

The proposed format of the draft *Policies* is divided into 'policy areas'. Each policy area includes a statement of provincial interest, followed by the goals and policies for that area. The provincial interest explains why the provincial government cares about the particular issue covered by a policy area (ex: agriculture, water, infrastructure, etc.). The goals outline what the province would like to achieve in that area and the policies identify what actions should be taken to meet these goals.

This format emphasizes the intent and purpose of *the Policies* and clearly explains how they should be interpreted by users. It differs from the current format in two ways:

- The current format is divided into policies (ex: agriculture, general development, etc.), each with a single, broad policy statement and supported by more specific policy applications. Because there are only the singular policy statements, the clarity and intent outlined in the policy applications is not legally significant.
- The current format does not provide any context for *the Policies*. It is unclear why the provincial government has objectives or policies for each of the policy statements as the provincial interest has not been explained.

2. Policy Language

Another proposed change in the draft *Policies* affects the use of directional language. In some cases, the language has been modified simply to modernize it.

In most cases, however, the proposed language changes are intended to strengthen the policy language. For example, 'encourage' is changed to 'should;' or 'should' is changed to 'must' to make it clear what the provincial expectations and position are on an issue and minimize misinterpretation.

This is important in locations where there are significant development pressures, competing interests and potential for land use conflicts. In areas with significant pressures such as the city of Winnipeg and other Capital Region municipalities, *the Policies* will be more strictly applied. In areas with less pressure and less potential for conflict such as Northern Manitoba, *the Policies* can be applied with more flexibility.

Strengthening *the Policies* is also important because eventually they are replaced by local development plans, which must be 'generally consistent' with the *Provincial Land Use Policies Regulation*. This wording – 'generally consistent' – already implies flexibility in terms of how specifically *the Policies* are applied, to account for local circumstances.

3. Reduce Redundancy

To streamline *the Policies*, the draft has been divided into policy areas that focus on specific issues. For example, policies affecting wastewater management are not repeated for each type of land use, rather they are stated singularly in Policy Area 6: Infrastructure.

The draft *Policies* have also been improved by increasing the number of terms that are defined. Rather than lengthy policies that outline all the different instances that might be covered by the policy, specific terms are italicized, indicating that they have specific meaning for the provincial government. Each of the definitions is then located in a separate, definitions section.

B. Content

The following section highlights the critical elements of each policy area, including the intent, rationale and significance of each, and the key differences from the current *Policies*.

Development Plan By-laws

This section of the draft *Policies* is intended to outline the requirements of a development plan by-law specifically. These requirements form the basic framework for how plans should be prepared. The following policy areas outline the type of content a development plan by-law should address.

Policy Area 1: General Development

This draft policy area is intended to provide direction to all land use and development in general, regardless of the type or location.

Overall, the draft *Policies* in this area reflect the current General Development policies, emphasizing the basic principles of sound land use planning. This includes things such as minimizing costs to the public, promoting integrated planning and decision-making, maximizing investments and taking a proactive approach.

A key difference is the draft *Policies* go beyond these basic principles. They provide additional guidance, based on best practices and innovative approaches to planning and development. In turn, this helps support government commitments to address climate change, improve accessibility, conserve energy and resources and promote sustainable development.

Policy Area 2: Settlement Areas

This draft policy area builds on the provisions for land use and development found in the current General Development policies. However, the draft *Policies* are specific to development in settlement areas as opposed to development in general. Settlement areas refer to urban centres, rural residential developments, cottage developments and other communities designated in a development plan.

The overall emphasis of this policy area is to maximize investments in communities and to strengthen them by directing development and growth to targeted settlement areas. This is accomplished by encouraging an integrated planning approach and strategic growth management practices. Urban centres are to be the focus for new growth and development because they generally have the services needed to accommodate it.

The draft *Policies* also include new provisions for urban centres, building on those from the current *Policies*. For example, there are now provisions for larger urban centres, such as the City of Winnipeg, that support neighbourhood revitalization and downtown protection and enhancement, as well as provide guidance for regional commercial developments. Intensification and mixed-use development practices are also clearly encouraged in urban centres.

A significant change in the draft *Policies* affects rural residential and cottage development. The draft *Policies* limit rural residential and cottage development to areas designated for these uses, as opposed to the current *Policies* that direct such development to, and encourage it, in rural areas. This change is meant to reduce scattered development and the fragmentation of agricultural land. It also intended to emphasize a

planned approach to development that anticipates and minimizes conflicts with resource-related uses. Local authorities will need to determine the areas that will be designated for rural residential and cottage development, and which of them will be targeted for additional growth.

Another significant change is that the draft *Policies* state that rural residential and cottage lot sizes must not be less than fifteen thousand square feet. The intent is to preserve rural and natural character and ensure these developments are an alternative to urban centres. This is different from the current *Policies*, which require all rural residential development to have two-acre lots and provide no lot-size requirement for cottage development. The reason for this change is the recognition that the two-acre minimum lot size is only relevant for development reliant on disposal fields. Because the draft *Policies* now make provision for rural residential and cottage development to be serviced by holding tanks or piped services, the two-acre minimum does not make sense across the board. These servicing provisions are discussed further under Policy Area 6: Infrastructure.

Overall, the draft *Policies* now treat cottage development the same way as rural residential development. This recognizes that cottages are often used as year-round or permanent residences and should follow the same guidelines as rural residential development.

Policy Area 3: Agriculture

The draft policy area for agriculture largely reflects the provisions in the current Agriculture Policy, but a number of policies have been strengthened. Overall, this policy area emphasizes the need to plan for agriculture and protect agricultural resources in the same way as other limited resources.

The draft *Policies* put much tighter restrictions on non resource-related uses, particularly residential, in areas identified for agriculture use. These areas are to be designated strictly for agriculture uses, with some exceptions. However, there is a provision for permitting non resource-related uses in agricultural areas where agriculture is not dominant. This is because of factors such as fragmentation, a mix of land uses and environmental conditions. In these areas, existing agricultural uses will still be protected.

Some new provisions in the draft *Policies* include the requirement for a minimum 80-acre parcel size for subdivision on identified agricultural lands. They also include the restriction of subdivisions to only one per 80-acre title, and only when the subdivision is for one of the following situations:

- when it is for a specialized agricultural operation
- when a remnant farmstead site remains after farm amalgamation
- when it is required for a farm employee residence
- when a parcel has been physically isolated and cannot be put into agricultural production

The subdivision provision for retiring farmers has been removed from the draft *Policies*.

In general, the intent and purpose of the draft policies on livestock operations have not changed. Where wording has changed, it has changed to clarify meaning.

Policy Area 4: Natural Lands, Renewable Resources, Recreation and Heritage

This draft policy area is a combination of the current *Policies* on Renewable Resources, Recreational Resources and Natural Features and Heritage Resources. The goal is to protect renewable resources, natural lands and heritage resources through special provisions or buffering, or the sustainable development of these areas, where appropriate. Because the draft *Policies* also include a policy area on water, the renewable resources referred to in this policy area are specifically wildlife and forests.

In this policy area, the draft *Policies* on recreational uses are similar to those in the current Recreational Resources policy, but the intent has been modified. Recreational uses in the draft *Policies* refers to the recreational use of land and resources (such as a beach, ski trail, etc.).

Policy Area 5: Water

This draft policy area combines the current *Policies* on Water and Shore land, Flooding and Erosion, and the Renewable Resources policies that relate to water. The overall emphasis is on the protection of water quality and supply, by ensuring development does not negatively affect water. The provisions of this policy area are substantially enhanced and provide clear direction on how land use planning can support this protection.

The draft *Policies* require that local development plans and integrated watershed management plans be mutually supportive to ensure a coordinated approach to planning for water and land use. By identifying the watershed(s) that the planning area is a part of, land use decisions will better reflect water considerations.

A number of provisions in this draft policy area restrict development in or near water. There are several assessment criteria for determining when a development may have a negative affect on water. Of particular concern is development in or adjacent to riparian areas and areas prone to flooding, erosion or bank instability, because these areas are sensitive to disturbance and contamination and can pose risks to people, property and the environment. Overall, development in or near these areas is restricted and a number of mitigation measures must be undertaken before development can be considered, if at all.

Policy Area 6: Infrastructure

This draft policy area reflects the provincial interest in the sustainable provision of infrastructure, in particular water and wastewater services. As infrastructure is emerging as a particularly important issue, the draft *Policies* have gone beyond the servicing policies that exist in the current *Policies*.

In this policy area, the relationship between development and infrastructure provision is emphasized. There are policies encouraging the integration of land use, infrastructure and financial planning, and provisions that promote optimization practices to make infrastructure investment more cost-effective.

This policy area also stresses that the beneficiaries of development should be required to pay the costs associated with development. Because infrastructure is often a large part of those costs, the draft *Policies* direct proposals for development to demonstrate the long and short term development costs and ensure that infrastructure is appropriate to the size, scale and type of development.

Water conservation and the protection of environmental and public health are related to infrastructure and are also emphasized in this policy area. New provisions in the draft *Policies* direct local authorities to prepare wastewater management plans and drinking water system plans to ensure that services are appropriate for development. The plans must also ensure that infrastructure assets are managed over their lifecycles and can accommodate growth.

The draft *Policies* recognize that piped water and wastewater systems may be necessary outside urban centres, such as to address public health and/or environmental concerns. The draft *Policies* also recognize that service-sharing approaches, such as the extension of an urban centre's piped systems outside its boundaries, may be the most economical and optimal way to provide services to new development.

Policy Area 7: Transportation

This draft policy area reflects the current *Policies* on highway protection. It also incorporates policies that reflect the provincial government's interest in transportation overall, such as protecting key transportation routes, enhancing multi-modal connectivity, promoting active transportation and transit use and ensuring accessibility.

The draft *Policies* promote the integration of land use and transportation planning. They include provisions to protect transportation infrastructure from incompatible development that could negatively affect the transportation system or lead to unnecessary public costs. They also include provisions that protect people and development from nuisances that can be associated with transportation facilities. To achieve this, the draft *Policies* encourage the preparation of

Transportation Plans and include more requirements for reviewing development proposals adjacent to provincial transportation facilities.

A number of new provisions for airports, municipal roads, transit, and specific provincial roads (seasonal, regional, etc.) have been incorporated to more fully encompass the spectrum of Manitoba's transportation system.

Policy Area 8: Mineral Resources

This draft policy area has not been substantially changed from the current *Policies* on Mineral Resources. Some wording has been changed to improve local understanding of mining rights and the mineral tenure system, and there is additional direction on what land uses might conflict with mining. The draft *Policies* also include greater direction for the use of best practices in environmental management related to exploration.

Policy Area 9: Capital Region

The Capital Region is used to describe a geographical area that reflects the political boundaries of the City of Winnipeg and 15 surrounding municipalities. The Region is the economic centre of Manitoba and is home to the majority of the provincial population. Because of its significance, the draft *Policies* include a specific policy area to support, promote and protect the Region.

The policy area on the Capital Region is completely new and emphasizes the need for a regional perspective to be reflected in planning decisions. It also points out the need for joint planning efforts that take advantage of regional opportunities and protect regional assets from conflicting development.

The current *Policies* note the need to link plans with neighbouring jurisdictions and to consider the regional context on cross-jurisdictional issues such as drainage, public servicing and transportation. The proposed policy area expands on this by recommending that municipalities and planning districts in this area should work together on issues like housing, recreation, provision of public services, public transit, immigration, water quality, etc. It also encourages them to think about the regional impact of local decisions.

The draft *Policies* support the establishment of a more strategic approach to planning and development in the Capital Region, to enhance the region's competitiveness and quality of life.

Part 3: Feedback

Why should I be interested in the review and rewrite of *the Policies*?

The *Provincial Land Use Policies Regulation* guides planning and decision-making related to the use and development of land in Manitoba and the protection and enhancement of our quality of life, now and in the future. *The Policies* help ensure:

- key resources, such as agriculture, minerals, wildlife, groundwater, forests and wetlands are protected for their environmental and economic benefits
- community growth is efficient, cost-effective and protects the environment
- people, property and investment are protected from hazards, etc.
- provincial highways, municipal roads, sewers and other infrastructure are adequately planned and efficiently developed
- sufficient land is allocated for future community growth

What has been the process for reviewing and rewriting *the Policies*?

The Community Planning and Development Division of Manitoba Intergovernmental Affairs is coordinating the review and rewrite of the *Provincial Land Use Policies Regulation*. Provincial government staff from departments that are typically involved in land use matters have reviewed *the Policies* and helped prepare the initial draft. Manitoba Intergovernmental Affairs is asking for your feedback on the proposed revisions.

How can I comment on the draft *Policies*?

The draft Policies can be found online at: **www.manitoba.ca/ia/plups** We would appreciate your comments on how the proposed policy changes may affect you and/or your organization. We also welcome your suggestions for improvement.

Interested parties are encouraged to share their views and suggestions on the *Provincial Land Use Policies: Draft for Consultation* by forwarding written comments by mail, fax or e-mail by **May 8, 2009**.

Send your comments to:

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